

## Opinion of the Court.

combination in question was formed, may not, in view of the facts disclosed, be effectual to accomplish the object of the act of 1890, I perceive no difficulty in the way of the court passing a decree declaring that that combination imposes an unlawful restraint upon trade and commerce among the States, and perpetually enjoining it from further prosecuting any business pursuant to the unlawful agreements under which it was formed or by which it was created. Such a decree would be within the scope of the bill, and is appropriate to the end which Congress intended to accomplish, namely, to protect the freedom of commercial intercourse among the States against combinations and conspiracies which impose unlawful restraints upon such intercourse.

For the reasons stated I dissent from the opinion and judgment of the court.

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STUART *v.* EASTON.

ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE  
EASTERN DISTRICT OF PENNSYLVANIA.

No. 151. Argued January 15, 1895. — Decided January 21, 1895.

An averment that the plaintiff is "a citizen of London, England," is not sufficient to give the Circuit Court jurisdiction on the ground of his alienage, the defendant being a citizen and on the question being raised in this court, the case may be remanded with leave to apply to the Circuit Court for amendment and for further proceedings.

THE case is stated in the opinion.

*Mr C. Berkeley Taylor* and *Mr A. T. Freedley*, (with whom was *Mr W. Brooke Rawle* on the brief,) for plaintiff in error.

*Mr H. J. Steele* for defendants in error.

THE CHIEF JUSTICE Plaintiff in error is described throughout the record as "a citizen of London, England," and the defendants as "corporations of the State of Pennsylvania." As the jurisdiction of the Circuit Court confessedly depended

## Statement of the Case.

on the alienage of plaintiff in error, and that fact was not made affirmatively to appear, the judgment must be reversed at the costs of plaintiff in error, and the cause be remanded to the Circuit Court with leave to apply for amendment and for further proceedings. *Bingham v. Cabot*, 3 Dall. 382, *Mossman v. Higginson*, 4 Dall. 12, *Capron v. Van Noorden*, 2 Cranch, 125, *Jackson v. Twentyman*, 2 Pet. 136, *Conolly v. Taylor*, 2 Pet. 556, *Brown v. Keene*, 8 Pet. 115, *Robertson v. Cease*, 97 U. S. 646, *Börs v. Preston*, 111 U. S. 252, 263, *Denny v. Peron*, 141 U. S. 121, *Horne v. George H. Hammond Co.*, 155 U. S. 393.

*Judgment reversed.*

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ROUSE v. LETCHER.

## APPEAL FROM THE CIRCUIT COURT OF APPEALS FOR THE EIGHTH CIRCUIT.

No. 552. Submitted December 17, 1894. — Decided January 21, 1895.

A judgment in a Circuit Court of Appeals upon the claim of an intervenor, set up in a Circuit Court against the receiver of a railroad appointed by that court in a suit for the foreclosure of a mortgage upon the road, is a final judgment which cannot be reviewed in this court.

MOTION to dismiss. The Mercantile Trust Company, a corporation of New York, filed its bill in the Circuit Court of the United States for the District of Kansas, June 8, 1888, against the Missouri, Kansas and Texas Railway Company, a corporation of Kansas, for the foreclosure of certain mortgages and deeds of trust, and George A. Eddy and H. C. Cross were thereupon appointed receivers of the company, and took charge of its property, which consisted, among other things, of a line of railroad running from Hannibal, Missouri, to Parsons, Kansas, and to Fort Worth, Texas. Ancillary proceedings were also had in the Circuit Courts of the United States through whose jurisdiction the railway ran. On October 11, 1890, Annie Letcher filed her intervening petition in that cause in the Circuit Court of the United States for the Northern